IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 23585 of 2004

Between:

B. Mallaiah, S/o Late Narsaiah,

Aged 53 years, Occ: Conductor, E.No.102248,
R/o Thummalapenpahad, Mandal Atmakur (S),

Nalgonda District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Bus Depot, Kodad, Nalgonda District.
2 The Depot Manager, APSRTC, Bus Depot, Suryapet, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of mandamus declaring the impugned Proc.No. PA/62(38)/93-KDD, dt.Nil as arbitrary, unjust, in violation of Art.14, 16 and 21 of the constitution of India and consequently direct the respondents to restore the deferred increments along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court made the following:

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ORDER:

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Declaring the action of the 1st respondent in imposing major penalty vide proceedings No.PA/62(38)/93-KDD, dated Nil, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for certain cash and ticket irregularities. He submitted his explanation. The

1st respondent passed an order vide Proceedings No.PA/62(38)/93-KDD, dated: Nil without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of two years, which shall have effect on future increments of the petitioner. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increments.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of two years with cumulative effect, imposed by the 1st respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual

increment for a period of two years without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increments on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Bus Depot, Kodad, Nalgonda District

2. The Depot Manager, APSRTC,

Bus Depot, Suryapet, Nalgonda District

3. Two CD copies.